UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS WESTERN DIVISION

)	
)	
) Case No. 08-C-50038))	
) Judge Kapala
) Magistrate Mahoney)
)	

PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO DISMISS COUNT IV OF PLAINTIFFS' COMPLAINT

NOW COMES the Plaintiffs, S.G. and S.G. as parents and guardians of L.G., a minor, by their attorneys, LAW OFFICES OF SHRIVER, O'NEILL & THOMPSON, and in Response to Defendants' Motion to Dismiss Count IV of Plaintiffs' Complaint, states as follows:

1. Plaintiffs, S.G. and S.G., as the parents of a minor, L.G., have sued the Rockford Board of Education, District No. 205, and its principal of Rolling Green Elementary School, Kenneth Held, in his official capacity, seeking compensation under a variety of claims and theories arising from the alleged sexual harassment of L.G. by one of her first-grade classmates.

ANSWER: Plaintiffs admit to the allegations contained in this paragraph.

2. Count IV of Plaintiffs' Complaint asserts a claim against Defendant, Principal Held ("Principal Held"), under a theory of negligence, alleging that Principal Held was negligent

in failing to implement measures and policies to adequately protect L.G. from her first-grade classmate.

ANSWER: Plaintiffs deny the allegations contained in this paragraph. Plaintiff avers that Principal Held was negligent in his duty to adequately protect L.G. in his role as in loco parentis. (Complaint ¶ 79, 80, 81, 91, 95, 96, 101, 102, 103 & 105).

3. Because Count IV pleads negligence based upon Principal Held's allegedly negligent decision-making and implementation of policy, Count IV is barred under the Local Governmental and Governmental Employees Tort Immunity Act ("Tort Immunity Act"), 745 ILCS 10/1-101 *et seq*.

ANSWER: This paragraph states a legal conclusion and, accordingly, requires no response. To the extent a response is required, Plaintiffs deny the allegations contained in this paragraph.

WHEREFORE, for the reasons set forth herein, the Plaintiffs respectfully request that this Court enter an Order dismissing Defendants' Motion to Dismiss Count IV of Plaintiffs' Complaint with prejudice and awarding Plaintiffs their costs of suit, and for such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

S.G. and S.G. as parents and guardians of L.G., a minor, Plaintiffs.

By: /s/Joyce O'Neill Austin

Joyce O'Neill Austin Shriver, O'Neill & Thompson 515 N. Court Street Rockford, IL 61103

Phone: (815) 963-4896

AFFIDAVIT OF SERVICE

The undersigned certifies that on June 4, 2008, a copy of the following was electronically served vis the U.S. District Court CM/ECF E-Filing System upon the following:

S.G. and S.G. v. Rockford Board of Education, School District No. 205

For Defendant:

Lori L. Hoadley Hinshaw & Culbertson LLP 100 Park Avenue P.O. Box 1389 Rockford, IL 61105-1389

Phone: (815) 490-4900

/s/ Michelle Kayser

Prepared by: THE LAW OFFICES OF SHRIVER, O'NEILL & THOMPSON Joyce O'Neill Austin 515 N. Court Street Rockford, IL 61103 Phone: (815) 963-4896

Fax: (815) 963-4904